



THE ATTORNEY GENERAL
OF TEXAS

GROVER SELLERS

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ATTORNEY GENERAL

AUSTIN 11, TEXAS

Honorable Donald Allums
County Auditor
Hardin County
Kountze, Texas

Dear Sir:

Opinion No. O-6307

Re: Under the facts given, may
the commissioners' court
authorize the employment of
a stenographer for the county
judge, who is a second cousin
to the said judge.

This will acknowledge receipt of your letter of recent date
requesting our opinion on the above stated question.

Article 432 of the Penal Code provides as follows:

"No officer of this State or any office of any
district, county, city, precinct, school district, or
other municipal subdivision of this State, or any offi-
cer or member of any State, district, county, city,
school district or other municipal board, or judge of
any court, created by or under authority of any general
or special law of this State, or any member of the Leg-
islature, shall appoint, or vote for, or confirm the
appointment to any office, position, clerkship, employ-
ment or duty, of any person related within the second
degree by affinity or within the third degree by consan-
guinity to the person so appointing or so voting, or to
any other member of any such board, the Legislature, or
court of which such person so appointing or voting may
be a member, when the salary, fees, or compensation of
such appointee is to be paid for, directly or indirect-
ly, out of or from public funds or fees of office of
of any kind or character whatsoever."

Article 433 of the Penal Code sets forth those to whom the
inhibitions of this law apply and included therein are members of the
commissioners' court. A county judge is a member of the commissioners'
court.

By the provisions of the nepotism law, members of the commissioners' court are prohibited from appointing to any employment any person who is related to any member of such court within the degrees specified therein, when the compensation for such employment is to be paid out of public funds.

Second cousins are related within the third degree, either by consanguinity, or blood, or by affinity or marriage. If the stenographer is related to the county judge by consanguinity or blood, she may not be legally employed, for such employment is prohibited by the plain provisions of Article 432. However, if she is related to the county judge by affinity, or marriage only, her employment is not prohibited by said statute.

We trust that the foregoing answers your inquiry.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By
s/ Fred C. Chandler

Fred C. Chandler
Assistant

FCC:db:egw

APPROVED FEB 23, 1945
s/ Carlos Ashley
FIRST ASSISTANT
ATTORNEY GENERAL

Approved Opinion Committee
By BWB Chairman